

VERNER, LIPFERT, BERNHARD, MCPHERSON AND HAND

CHARTERED

901-15TH STREET, N.W.
WASHINGTON, D.C. 20005-2301

8280 GREENSBORO DRIVE
SUITE 601
MCLEAN, VIRGINIA 22102
(703) 749-6000
TELECOPIER: (703) 749-6027

(202) 371-6000
TELECOPIER: (202) 371-6279

2600 TEXAS COMMERCE TOWER
600 TRAVIS
HOUSTON, TEXAS 77002
(713) 237-9034
TELECOPIER: (713) 237-1216

WRITER'S DIRECT DIAL
(202) 371-6129

April 3, 1995

VIA HAND DELIVERY

Mr. William F. Caton
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

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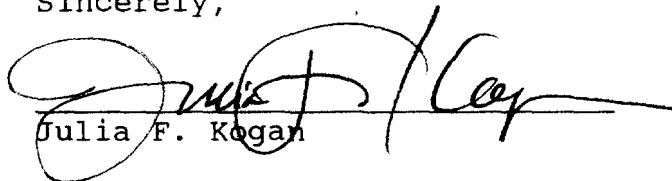
RE: PP Docket No. 93-253

Dear Mr. Caton:

U.S. AirWaves Inc. hereby submits the attached Comments in response to the Commission's Public Notice, DA 95-651, seeking comment on the Telephone Electronics Corporation (TEC) request for waiver of Section 24.709(a)(1) of the Commission's rules.

Please accept these Comments for filing with the Commission and return a date-stamped copy with our messenger. Thank you.

Sincerely,


Julia F. Kogan

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**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Implementation of Section 309(j))
of the Communications Act --)
Competitive Bidding)

PP Docket No. 93-253

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TO: The Commission

**U.S. AIRWAVES INC. COMMENTS
ON TELEPHONE ELECTRONICS CORPORATION
PETITION FOR LIMITED WAIVER**

U.S. AirWaves Inc. ("AirWaves"), by its attorneys, hereby submits its comments in support the Emergency Petition for waiver of Section 24.709(a)(1) of the Commission's rules filed by Telephone Electronics Corporation ("TEC") on March 28, 1995 ("TEC Petition").

TEC's request for limited waiver of the Commission's Rules, circumscribed by its intent to bid for Personal Communications Service ("PCS") licenses only in rural areas where TEC's rural telephone companies provide telephone service, demonstrates TEC's intent to provide PCS to rural areas of this country. Granting this request will carry out congressional intent and the important Federal Communications Commission ("FCC") objective of ensuring that rural areas of the nation have access to the new communications technologies deployed in more populous urban areas.^{1/}

^{1/} See 47 U.S.C. § 309(j)(3)(A) ("the Commission shall . . . seek to promote . . . the development and rapid deployment of new . . . services for the benefit of the public, including those residing in rural areas, without administrative or judicial delays"); Second Memorandum Opinion and Order, PP Docket No. 93-253, 9 FCC Rcd 7245, ¶ 76 (1994) (noting Commission goals of "encouraging provision of service to rural areas").

The TEC Petition clearly states that if its rural telephone companies are permitted to participate in the auctions under the requested waiver, "TEC would have no incentive to continue with its appeal, and its lawsuit could be dismissed, allowing the auctions to proceed without further delay."^{2/} AirWaves believes this is a critical point in paving the way for the next step of requesting the United States Court of Appeals for the District of Columbia Circuit to lift its stay of portions of the FCC's items in PP Docket No. 93-253 relating to competitive bidding.^{3/}

AirWaves encourages the FCC to promptly grant the TEC waiver request, ask the D.C. Circuit to lift its stay order and dismiss the case before it for lack of a case or controversy, and commence the C block auction process. AirWaves believes that the public interest requires rapid action to mitigate any competitive head-start that A and B Block winners have gained as a result of the stay order. In addition, rapid action is particularly important to many small entrepreneurs whose ability to fund pre-auction operations is limited. Expedient grant of TEC's petition, disposition of the litigation and commencement of the auctions will ensure rapid deployment of new wireless telecommunications choices for the general public.

AirWaves submits these comments not only to support TEC's request but also to commend the FCC for setting an expedited comment and reply schedule.^{4/} As the FCC and TEC continue to work together to settle this issue and pave the way for lifting of the stay and

^{2/} TEC Petition at 7.

^{3/} See *Telephone Electronic Corporation v. F.C.C.*, No. 95-1015 (D.C. Cir. filed Mar. 15, 1995) (order granting stay of those portions of the Fifth Report and Order, 9 FCC Rcd 5532 (1994), and Memorandum Opinion and Order, 10 FCC Rcd 403 (1994), in PP Docket No. 93-253, establishing minority and gender preferences, the C block auction employing those preferences, and the application process for that auction pending judicial review).

^{4/} See Public Notice, Comment Sought on TEC Request to Waive Entrepreneurs' Block Eligibility Rules, DA 95-651 (released Mar. 29, 1995).

subsequent commencement of the C block auctions, AirWaves will continue to assess the status of the proceeding and, potentially, to participate more actively.

Respectfully submitted,

U.S. AirWaves, Inc.
10500 N.E. Eighth Street, Suite 625
Bellevue, WA 98004

By: Lawrence R. Sidman
Lawrence R. Sidman

Julia F. Kogan
Verner, Liipfert, Bernhard, McPherson and Hand
901 Fifteenth Street, N.W., Suite 700
Washington, D.C. 20005-2301

(202) 371-6000

Its Attorneys

April 3, 1995

CERTIFICATE OF SERVICE

I, Bridget Y. Monroe, a secretary with the law firm of Verner, Liipfert, Bernhard, McPherson and Hand, hereby certify that on this 3rd day of April, 1995, a copy of "U.S. Airwaves Comments on Telephone Electronics Corporation Petition for Limited Waiver" was hand-delivered to the following persons:

Rudolfo Baca, Esquire
Legal Advisor to Commissioner
Quello
Federal Communications Comm.
1919 M Street, NW -- Room 802
Washington, D.C. 20554

Lauren J. Belvin, Esquire
Senior Legal Advisor to
Commissioner Quello
Federal Communications Comm.
1919 M Street, NW -- Room 802
Washington, D.C. 20554

William E. Kennard, Esquire
General Counsel
Federal Communications Comm.
1919 M Street, NW -- Room 614
Washington, D.C. 20554

Jane E. Mago, Esquire
Senior Legal Advisor to
Commissioner Chong
Federal Communications Comm.
1919 M Street, NW -- Room 844
Washington, D.C. 20554

Mary P. McManas, Esquire
Legal Advisor to Commissioner
Ness
Federal Communications Comm.
1919 M Street, NW -- Room 832
Washington, D.C. 20554

Jill Luckett, Esquire
Senior Advisor to Commissioner
Chong
Federal Communications Comm.
1919 M Street, NW -- Room 844
Washington, D.C. 20554

Regina Keeney, Esquire
Chief
Wireless Telecommunications
Bureau
Federal Communications Comm.
2025 M Street, NW -- Room 5002
Washington, D.C. 20554

Mr. Donald Gips
Deputy Chief, Office of Plans
and Policy
Federal Communications Comm.
1919 M Street, NW -- Room 822
Washington, D.C. 20554

Larry Atlas, Esquire
Associate Bureau Chief
Wireless Telecommunications
Bureau
2025 M Street, NW --Room 5002E
Washington, D.C. 20554

Rosalind K. Allen, Esquire
Acting Chief, CMRS Division
Wireless Telecommunications
Bureau
Federal Communications Comm.
2025 M Street, NW -- Room 5202
Washington, D.C. 20554

Mr. Peter A. Tenhula, Esquire
Federal Communications Comm.
1919 M Street, NW -- Room 615
Washington, D.C. 20554

Kathleen Ham, Esquire
Acting Legal Advisor, CMRS Division
Wireless Telecommunications
Bureau
2025 M Street, NW --Room 5126F
Washington, D.C. 20554

Muriel Watkins
Auctions Project Manager
Wireless Telecommunications
Bureau
Federal Communications Comm.
2025 M Street, NW --Room 5202
Washington, D.C. 20554

Andrew Sinwell
Office of Plans & Policy
Federal Communications Comm.
1919 M Street, NW -- Room 822
Washington, D.C. 20554

James U. Troup, Esquire
Roger P. Furey, Esquire
Arter & Hadden
1801 K Street, NW
Suite 400K
Washington, D.C. 20006

ITS
2100 M Street, NW
Suite 140
Washington, D.C. 20037


Bridget Y. Monroe